

TITLE 4. CALIFORNIA SCHOOL FINANCE AUTHORITY

NOTICE OF MODIFICATION TO THE PROPOSED RULEMAKING ACTION

Article 1.5, Sections 10165 to 10170 Title 4, Division 15 California Code of Regulations

NOTICE IS HEREBY GIVEN that the California School Finance Authority (Authority), organized and operating pursuant to Sections 17170 through 17199.5 of the Education Code, proposes to adopt the modified proposed regulations described below after considering all comments, objections and recommendations regarding the proposed action.

Any person interested may present statements or arguments relevant to the proposed action to the attention of the Contact Person as listed in this Notice no later than 5:00 p.m. on Monday, February 11, 2008. The Authority Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposal substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person(s) designated in this notice as Contact Person and will be mailed to those persons who submit statements related to this proposal or who have requested notification of any changes to the proposal.

Proposed Regulatory Action

The Authority proposes to adopt Sections 10165 to 10170 of Title 4 of the California Code of Regulations (Regulations). The Regulations implement the Authority's responsibilities related to the Charter School Working Capital Program (Program).

Authority and Reference

Authority: Sections 17179 and 17180, Education Code. Section 17179 provides the Authority with the power to do all things reasonably necessary to carry out its responsibilities. Section 17180(a) of the Education Code authorizes the Authority to adopt bylaws for the regulation of its affairs and the conduct of its business.

Reference: Sections 17078.52, 17173, 17179, 17180, 17183, 47605, and 47612.5 of the Education Code. These Regulations implement the Charter School Working Capital Program and include a number of the requirements of that program contained in the reference code provisions and their implementing Regulations. They also rely on a number of provisions in the Charter Schools Act of 1992, commencing with section 47600 of the Education Code.

Informative Digest/Policy Statement Overview

The Authority was created in 1985 to provide tax-exempt, low cost financing to school districts and community college districts for use in the repair and construction of school facilities as well as provide financing for working capital purposes. At the time the Authority's statute was created, charter schools did not exist and therefore were not listed in the definition of entities able to access financing through the Authority. Since the passage of the Charter School Act of 1992, charter schools have become a viable option for those seeking choice in education, and as of the 2007-08 school year, approximately 620 charter schools serving 220,000 California public school students. With the passage of Assembly Bill 2717 (Statutes of 2006, Walters), the term "charter school" has been added to the Authority's statutory definition of participating party, allowing charter schools to access financing through the Authority. Effective January 1, 2007, the Authority may serve as a conduit issuer, and issue debt on behalf of charter schools. Debt issued on behalf of a borrower through the Authority is not deemed to constitute a debt or a liability of the Authority, the State, or any political subdivision thereof.

Education Code section 17171 provides that the Authority may serve as a conduit issuer and issue debt on behalf of charter schools. Education Code section 17180 authorizes the Authority Board to adopt bylaws for the regulation of its affairs. The Authority proposes to adopt sections 10165 through 10170 in title 4 of the California Code of Regulations (CCR). These sections concern the Authority's administration of a financing program for charter schools.

Section 10165 states that the purpose of the Article is to implement the Charter School Working Capital Program to provide financing to California charter schools.

Section 10166 defines the meaning of the words and phrases used in the article.

Section 10167 provides the eligibility criteria that must be met before an applicant may apply for financing through the Authority.

Section 10168 describes the areas of evaluation that may be used in evaluating an application for financing, and provides that the Authority may in its discretion determine not to grant approval to any entity regardless of whether the entity met the threshold criteria.

Section 10169 identifies the categories of information that shall be submitted at the time of application for financing (including, but not limited to, Applicant Information; Charter and Oversight Information; Charter School Organizational Information; Financial Information; Material Contracts; Structure/Management Information). This section also provides for an optional format when submitting the application materials as long as the information is complete and allows the Authority to make an approval determination for purposes of the program.

Section 10170 sets out the fees that shall be charged for reasonable and necessary administrative and program expenses, including but not limited to an application fee, an administrative fee, and a transaction fee.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on Local Agencies or School Districts: None

Cost or savings to any State agency: None

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None

Other nondiscretionary cost or savings imposed on local agencies: None

Cost or savings in federal funding to the State: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impacts on a representative private person or business: The Authority is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- 1) create or eliminate jobs within California;
- 2) create new businesses or eliminate existing businesses within California; or
- 3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None

Small Business Determination: The Authority has determined that the adoption of the proposed Regulations will not affect small business. The program is a voluntary financing program available to charter schools to assist in the financing of charter school facilities and working capital needs.

Other matters prescribed by statutes applicable to the Authority or to any specific regulation or class of regulations pursuant to section 11346.5(a)(4) of the Government Code: None

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), The Authority has determined that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the Regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed actions.

Written Comment Period

The Authority invites interested persons to present statements with respect to alternatives to the modified proposed Regulations during the written comment period.

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed Regulations to the Authority. The written comment period will close at **5:00 p.m. on Monday, February 11, 2008**. All comments to be considered by the Authority must be submitted in writing to the Agency Contact Person identified in this Notice by that time. In the event that changes are made to the Regulations during the written comment period, the Authority will also accept additional written comments limited to any changed or modified Regulations for 15 calendar days after the date on which such Regulations as changed or modified, are made available to the public pursuant to title 1, Chapter 1, Section 44 of the California Code of Regulations. Such additional written comments should be addressed to the Agency Contact Person identified in this Notice.

Agency Contact Person(s)

Written comments, inquiries, and any questions regarding the substance of the Regulations shall be submitted or directed to:

Katrina Johantgen, Executive Director
California School Finance Authority

at

csfa@treasurer.ca.gov

or

304 South Broadway, Suite 336
Los Angeles, CA 90013-1224

or

915 Capitol Mall, Room 576
Sacramento, CA 95814

The following person is designated as a backup contact person for inquiries only regarding the Regulations:

Mark Paxson, General Counsel
State Treasurer's Office
(916) 653-2971

Availability of Initial Statement of Reasons, Rulemaking File and Express Terms of Proposed Regulations

Pursuant to the California Government Code, the Authority has established a rulemaking file for this regulatory action, which contains those items required by law. The file is available for inspection at the Authority's office at 915 Capitol Mall, Sacramento, California, during normal business hours. As of the date of this Notice, the rulemaking file consists of this Notice, the

modified proposed text of the regulations, the initial Notice as published in the Notice Register on April 6, 2007, the Initial Statement of Reasons, and the initial proposed text of the Regulations. Copies of these items are available upon request from the Agency Contact Person designated in this Notice. The Sacramento address will be the location for inspection of the rulemaking file and any other public records, including reports, documentation and other materials related to this proposed regulatory action. In addition, the rulemaking file, including this notice, the modified text, the initial Notice, the Initial Statement of Reasons and the initial proposed text, may be viewed on the Authority's Web site at www.treasurer.ca.gov/csfa.

Public Hearing

No public hearing regarding the Regulations has been scheduled. Anyone wishing that a public hearing be scheduled must submit a request in writing, pursuant to Section 11346.8 of the Government Code, addressed to the Agency Contact Person identified in this Notice and should specify the Regulations for which the hearing is being requested. Such request must be received no later than 15 days before the close of the written comment period.

15-Day Availability of Changed or Modified Text

After the written comment period ends and following a public hearing, if any is requested, the Authority may adopt the Regulations substantially as described in this Notice, without further notice. If the Authority makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public (including through the Authority's Web site described above) for at least fifteen (15) calendar days before the Authority adopts the proposed Regulations, as modified. Inquiries about and requests for written copies of any changed or modified regulations should be addressed to the Agency Contact Person identified in this Notice.

Availability of Final Statement of Reasons

The Authority is required to prepare a Final Statement of Reasons pursuant to Government Code section 11346.9. Once the Authority has prepared a Final Statement of Reasons, a copy will be made available to anyone who requests a copy and will be available on the Authority's Web site described above. Written requests for copies should be addressed to the Agency Contact Person identified in this Notice.